

Michael Euler CFM
Stormwater Planning & Design LLC
625 Waugh Way
Bastrop, Tx. 78602
(713) 859-2406

April 14, 2016

CHIEF CLERKS OFFICE

2016 APR 14 AM 11:29

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Use Determination Appeal

Stormwater Planning & Design LLC respectfully requests, as the Preparer of the Positive Use Determination Application filed on behalf of WMCI Austin II LLC reconsider the Use Determination concerning The Water Quality Transition Zone as Pollution Control Property at:

WMCI Austin II LLC (Positive Use Determination Application 19883)

8601 Anderson Mill Rd
Austin, Tx. 78729-4700

A Positive Use Determination was issued to WMCI Austin II LLC on April 8, 2016 for Critical Water Quality Zone that is contiguous to the Water Quality Transition Zone area on said property.

We are appealing the Negative Use Determination issued to the Water Quality Transition Zone for the reason that Austin Code of Ordinances clearly states in § 25-8-93 & § 25-8-422 that:

“A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.”

This definition presents factual evidence that water quality transition zone areas within the Edwards Aquifer is mandated by the COA and acts to filter runoff, preventing pollution and should be considered Pollution Control Property when an Applicant makes a Positive Use Determination Application to the TCEQ.

City of Austin Code of Ordinance(s) is called out on Pg. 2 of this Request

Thank You,



Michael Euler CFM
Stormwater Planning & Design LLC (on behalf of WMCI Austin II LLC)

COA CODE OF ORDINANCE:

§ 25-8-93 - WATER QUALITY TRANSITION ZONES ESTABLISHED

§ 25-8-422 - WATER QUALITY TRANSITION ZONE

- (A) Development is prohibited in a water quality transition zone that lies over the South Edwards Aquifer recharge zone, except for:
- (1) development described in Article 7, Division 1 (Critical Water Quality Zone Restrictions); and
 - (2) minor drainage facilities or water quality controls that comply with Section 30-5-364 (Floodplain Modification) and the floodplain modification criteria in the Environmental Criteria Manual.
- (B) Development is prohibited in a water quality transition zone that lies outside the South Edwards Aquifer recharge zone, except for:
- (1) development described in Article 7, Division 1 (Critical Water Quality Zone Restrictions);
 - (2) streets;
 - (3) minor drainage facilities or water quality controls that comply with Section 30-5-364 (Floodplain Modification) and the floodplain modification guidelines of the Environmental Criteria Manual; and;
 - (4) duplex or single-family residential development with a minimum lot size of two acres and a density of not more than one unit for each three acres, excluding acreage in the 100-year flood plain.
- (C) A lot that lies within a critical water quality zone must also include at least two acres in a water quality transition zone or uplands zone.

Source: City Code Section 25-8-453; Ord. 031211-11; Ord. 031211-42; Ord. 20131017-046.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 8, 2016

Mr. Mike Euler
Consultant
Stormwater Planning & Design LLC
625 Waugh Way
Bastrop, Texas 78602

Re: Notice of Use Determinations
WMCI Austin II LLC
Bexley Anderson Mill Apts
8601 Anderson Mill Rd
Austin (Williamson County)
Regulated Entity Number: RN104792296
Customer Reference Number: CN604869974
Application Number: 19883

2016 APR 14 AM 11:28
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Dear Mr. Euler:

This letter responds to WMCI Austin II LLC's Application for Use Determination, received February 18, 2016, pursuant to the Texas Commission on Environmental Quality's (TCEQ) Tax Relief for Pollution Control Property Program for the Bexley Anderson Mill Apts.

The TCEQ has completed the review for application #19883 and has determined that certain property included in the application is not eligible for a Positive Use Determination. The TCEQ has issued a Positive Use Determination for the eligible property in the application in accordance with Title 30 Texas Administrative Code (TAC) §17.4 and a Negative Use Determination for the ineligible property in accordance with §17.4 and §17.6. The justification for the Negative Use Determination is provided below.

A negative determination for the water quality transition zone. The mere fact that stormwater flows across a piece of land does not make that land pollution control property.

In order to request an exemption for the eligible property, the attached Use Determination Certificate and a completed Application for Pollution Control Property Tax Exemption, Form #50-248 (please see www.cpa.state.tx.us), must be provided to the chief appraiser of the appropriate appraisal district no later than April 30th of the applicable tax year.

Please be advised that a Use Determination may be appealed by the applicant or the chief appraiser of the applicable appraisal district. The appeal must be filed with the TCEQ Chief Clerk within 20 days after the receipt of this letter in accordance with 30 TAC §17.25.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

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Mr. Mike Euler
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If you have questions regarding this letter or need further assistance, please contact Ronald Hatlett of the Tax Relief for Pollution Control Property Program by telephone at (512) 239-6348, by e-mail at Ronald.Hatlett@tceq.texas.gov, or write to the Texas Commission on Environmental Quality, Tax Relief for Pollution Control Property Program, MC-110, P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,



Shelley Naik, Team Leader
Stationary Source Programs
Air Quality Division

SN/RH

Enclosure

cc: Chief Appraiser, Williamson County Appraisal District, 625 FM 1460, Georgetown,
Texas 78626